

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

LYNNE FREEMAN, an individual,

Plaintiff,

-against-

TRACY DEEBE-ELKENANEY, et al.,

Defendants.

Case No. 1:22-cv-02435-LLS-SN

**PLAINTIFF’S NOTICE OF REQUEST
FOR JUDICIAL NOTICE IN SUPPORT
OF HER MOTION FOR SUMMARY
JUDGMENT**

TO THE COURT, ALL PARTIES, AND COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT Plaintiff Lynne Freeman (“Freeman”) respectfully requests that, pursuant to Fed. R. Evid. 201, this Court take judicial notice of:

(1) the dates of publication of the books entitled *Crave*, *Crush*, *Covet* and *Court* contained on the applicable copyright registrations printed out from the United States Copyright Office’s public online catalog and

(2) the statements made by Defendant Tracy Wolff (“Wolff”) in a YouTube Podcast by Hank Garner in which he interviews Wolff in his Podcast entitled Author stories Podcast Episode 1072 Wolff Returns with Covet, including, but not limited to, the statements made by her Wolff at timecode [00:15:00-16:00].

(3) The articles published by the Harvard Crimson entitled “Examples of Similar Passages Between Viswanathan’s Book and McCafferty’s Two Novels” and “‘Opal Mehta’ Gone for Good; Contract Cancelled.”

(4) The article published by PBS entitled “Publisher Pulls Harvard Student’s Novel Over Alleged Plagiarism.

At any stage of a proceeding, a court may judicially notice a fact that is not subject to reasonable dispute because it (1) is generally known within the trial court's territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned. Fed. R. Evid. 201.

This Court may take judicial notice of copyright registrations within the United States Copyright Office's public catalog and the date of publication of the copyright work set forth therein. *Fleishman v. World Bride Magazine, LLC*, No. 19 CV 5595, 2020 WL 7774843, at *6. In this case, the copyright registrations for the offending crave books include publicly available information about those books, including their dates of publication.

Similarly, statements made in public interviews are subject to judicial notice. Thus, in *Christa McAuliffe Intermediate Sch. PTO, Inc. v. de Blasio*, 364 F. Supp. 3d 253, 263–64 (S.D.N.Y. 2019), *aff'd*, 788 F. App'x 85 (2d Cir. 2019), the court *sua sponte* took judicial notice of statements made by a party in a television interview conducted by a local television station because it could be accurately and readily determined from the video footage of the interview. In this case, the statements made by Defendant Wolff can be just as readily determined from the footage.

Lastly, pursuant to Fed. R. of Evid. §902, printed material purporting to be a newspaper or periodical are self-authenticating.

Accordingly, Freeman requests that the Court take judicial notice in support of Freeman's Motion for Summary Judgment of the following:

1. The copyright registrations printed from the United States Copyright Office's public catalog for the books *Crave*, *Crush*, *Covet* and *Court*, which are publicly available on the United States Copyright Offices website at <https://www.copyright.gov> and are attached hereto as Exhibit 1.
2. Hank Garner's Author Stories Podcast Episode 1072/Tracy Wolff Returns with Covet, which is publicly available at the following website: <https://hankgarner.com/author-stories-podcast-episode-1072-tracy-wolff-returns-with-covet/>.
3. The article published by the Harvard Crimson entitled "Examples of Similar Passages Between Viswanathan's Book and McCafferty's Two Novels," which is publicly

available at the following website:

<https://www.thecrimson.com/article/2006/4/23/examples-of-similar-passages-between-viswanathans/>

4. The articles published by the Harvard Crimson entitled “‘Opal Mehta’ Gone for Good; Contract Cancelled,” which is publicly available at the following website:
<https://www.thecrimson.com/article/2006/5/2/opal-mehta-gone-for-good-contract/>
5. The article published by PBS entitled “Publisher Pulls Harvard Student’s Novel Over Alleged Plagiarism, which is publicly available at the following website:
<https://www.pbs.org/newshour/show/publisher-pulls-harvard-students-novel-over-alleged-plagiarism>

Respectfully submitted,

Dated: November 22, 2023

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cc: All counsel of record (via ECF)